

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES INVESTOR PROTECTION
CORPORATION,**

Plaintiff-Applicant,

v.

**BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,**

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

**Adv. Pro. No. 08-01789 (SMB)
SIPA Liquidation
(Substantively Consolidated)**

**DECLARATION IN
OPPOSITION TO THE
TRUSTEE'S MOTION TO
AFFIRM APPLICATION OF
THE NET INVESTMENT
METHOD TO THE
DETERMINATION OF
CUSTOMER TRANSFERS
BETWEEN BLMIS
ACCOUNTS**

I, MARSHA PESHKIN, declare pursuant to 28 U.S.C. § 1746, that the following is true based upon personal knowledge and documents I possess:

1. I am a former customer of Bernard L. Madoff Investment Securities LLC ("BLMIS"). My account history is as follows:

2. My husband, Roy Peshkin, died on February 12, 2001. At the time of his death, Roy was the Trustee and sole beneficiary of a defined benefit pension plan (the "Plan") at BLMIS. The full name and address of the BLMIS account holder was Superweb Press, DEF Benefit Plan, R. Peshkin Trustee, 1020 Grand Isle Terrace, Palm Beach Gardens, Florida 33418.

3. I do not know when the Superweb Press account was opened at BLMIS but, at the time of Roy's death, he was the only remaining Plan beneficiary and his interest in the account had a value of \$736,454.43.

4. On May 13, 2002, the attorney handling Roy's estate told me that, as Roy's widow, I should transfer Roy's interest in the Plan to my own IRA.

5. I contacted BLMIS to find out how I could arrange to do this and I was informed that I had to liquidate and close out the Plan's account; open an IRA account with BLMIS; and then, if I chose to do so, invest the cash proceeds of the Plan's account into an IRA account that I could establish. I needed a custodian for my IRA account and the person I spoke to at BLMIS required that I use Retirement Accounts, Inc. ("Fiserv"). I then opened an account with Fiserv. See Exhibit A.

6. At my request, I entered into an agreement with Fiserv pursuant to which Fiserv opened the Marsha Peshkin IRA account at BLMIS on June 21, 2002 with a deposit of \$736,454.43. The funds were deposited as a "direct rollover." See Exhibit B.

7. On August 21, 2002, I transferred \$200,731.83 to BLMIS from my IRA account at Ameriprise. On October 11, 2002, \$302.27 was credited by BLMIS as an account adjustment from Roy's account. On October 27, 2005, I transferred \$250,000 from BLMIS to my IRA at Ameriprise. On October 19, 2007, I transferred \$200,000 from BLMIS to another IRA account I had at Merrill Lynch. On November 14, 2008, I transferred \$100,000 to BLMIS from my Merrill Lynch IRA. On December 1, 2008 – ten days before Madoff confessed, I transferred \$125,000 to BLMIS from my Ameriprise IRA. Each of

these transfers is listed in the August 18, 2009 Determination Letter sent to me by the Trustee. See Exhibit C at 2.

8. These were the only account transactions I've ever been aware of and all of them were between my different IRA accounts.

9. The summary of all transactions in my IRA account at BLMIS is as follows:

Date	Deposits	Withdrawals
6/21/02	\$736,454.43	0
8/21/02	\$200,731.83	0
10/11/02	\$302.27	
10/7/05	0	\$250,000
10/19/07	0	\$200,000
11/14/08	\$100,000	0
12/1/08	\$125,000	0
	\$1,162,488.53	\$450,000

10. Thus, my total deposits were \$1,162,488.53; my total withdrawals were \$450,000. My net investment was \$712,488.53.


11. I filed a SIPC claim for \$712,488.53 but the Trustee only allowed claim for \$176,354.66 because he charged against me the pension withdrawals taken prior to 2002 by beneficiaries of the Plan. Thus, the Trustee reduced the value of the initial deposit from \$736,454.43 to \$200,622.83.

12. Even though I personally had deposited \$225,000 in the four weeks prior to December 11, 2008, my claim was allowed for only \$176,354.66.

13. I filed an objection to the Trustee's determination. See Exhibit D.

14. I declare under penalty of perjury that the aforesaid facts are true and correct.

May 14, 2014


Marsha Peshkin